

## **REMARKS**

### **I. CORRESPONDENCE ADDRESS**

Applicant respectfully request that all correspondence be forwarded to the address associated with Customer No. 21967. Copies of the Revocation and Power of Attorney previously filed and Notice Regarding Power of Attorney received from the Patent Office is attached for the Examiner's convenience to make this change.

### **II. STATUS OF THE CLAIMS - TOTAL NUMBER OF CLAIMS HALVED TO EXPEDITE PROSECUTION**

Claims 1-82 were previously pending. In an effort to expedite prosecution, applicant has halved the total number of pending claims. Specifically, claims 1-27, 29-30, 60-62 and 66-82 have been canceled without prejudice or disclaimer. In addition, original claims 28, 31 and 35-38 and previously presented claims 51 and 57-59 have been amended - primarily to improve clarity. Finally, applicant has added a limited number of new claims. Specifically, claims 83-90 have been added. Accordingly, claims 28, 31-59, 63-65 and 83-90 are pending and the total number of claims has been reduced from 82 to 41.

### **III. THE PENDING CLAIMS ARE NOT ANTICIPATED BY UNITED STATES PATENT NUMBER 6,191,541**

Claims 1-82 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Pat. No. 6,195,541 ("Griffith"). To the extent this rejection applies to the pending claims, applicant respectfully traverses the rejection and request reconsideration thereof for reasons set forth below.

First, all of the pending claims require a customer transceiver that generates operative power and transmits customer information after receiving a radio frequency signal from another source. For example, independent claim 28, and therefore, claims 31-50 and 83 dependent thereon, requires "a customer transceiver ... [that] generates operating power after receiving a first radio frequency signal and subsequently transmits a second radio frequency signal that conveys a customer/transmitter identifier ... [and] a merchant transceiver . . . that . . . sends said first radio frequency signal to said customer transceiver . . . ." Similarly, claim 51 and, therefore, claims 52-59, 63-65 and

84 dependent thereon, requires "transmitting a first radio frequency signal to a customer transceiver that generates operating power after receiving said first radio frequency signal . . . [and] subsequently transmitting, from said customer transceiver a second radio frequency signal that conveys customer identification data . . . ." Similar limitations exist in claims 85-90.

The use of a customer transceivers that generates power and transmits data in response to a signal from a merchant transceiver is identified as a preferred embodiment throughout the specification. For example, the specification provides the following teaching:

In a preferred embodiment, customer transceiver 50 has no independent battery or other power source, such that operational energy is received from transceiver (48 or 970), indicated generally in FIGs. 4 and 11, respectively ... When customer transceiver 50 is brought within close proximity to [merchant] transceiver (48 or 970), a signal of a desired frequency passes through receiver 1140, causing it to generate a supply voltage for powering the other components of customer transceiver 50. The signal is received by CPU 1120 which then sends a signal to memory device 1130 and then to customer transceiver 1150 for transmission to an adjacent merchant transceiver 48.

See 09/505721, 25:17 to 26:13.

This feature is neither disclosed in, nor suggested by, Griffith. Instead, Griffith uses a mobile telephone. Mobil telephones do not generate power in response to signals received from outside transceivers. Furthermore, customer information in Griffith is not sent in response to a signal received from a transceiver but is, instead, sent when the user decides to use a mobile telephone to dial a telephone number associated with a point of sale device and then enter information the user wants to send to the point of sale device. This is evidenced, for example, in the following passages:

For example, within a supermarket, the user could request that the wireless telephone transmit the account information while the user was is [sic] standing in line for the cash register. In such a situation, the user would have to specify the cash register to the wireless telephone.

\* \* \*

The user initiates a call to transaction unit 106 . . . Once the call is connected, wireless telephone 103 transmits to transaction unit 106 and

[sic] account information defining the type of account that wireless telephone 103 wishes the merchandise charged against ....

See Griffith, 2: 29-33 and 3:24-40. Accordingly, it is respectfully submitted that Griffith does not anticipate or make obvious the pending claims.

Second, pending claims 28, 31-59, 63-65 and 83-84 all require the use of a merchant identifier to identify an appropriate payment processor. For example, independent claim 28 requires that "a host computer system . . . determine, from said customer/transmitter identifier and merchant identifier, a payment processor" and independent claim 51 requires "selecting a payment processor at the transaction processor based at least in part upon information associated with the customer identification data and the merchant identifier . . . ."

This also is an important embodiment of the invention as set forth throughout the specification. "The system ... provides a much greater degree of convenience to participating customers since it allows them to preassign [sic] specific payment methods to specific retail establishments and to have the preassigned [sic] payment methods automatically selected by the transaction processing system whenever the customer utilizes his/her wireless customer transceiver in the merchant's retail establishment." See 09/505721, 6:17-22. "When the customer enters data in the customer transaction database 100, he/she may select any one of the merchant's accepted payment methods in which he/she also has accounts." See 09/505721, 36:1-3. This enables the customer, for example, to select different payment options for different merchants (*e.g.*, as claimed in claim 59).

This feature is neither disclosed in, nor suggested by, Griffith. Griffith does not have use a database where payment methods are chosen based on customer information and merchant information. Instead, in Griffith, the customer directly communicates the form of payment to the point of sale device during the transaction. "Once the call is connected, wireless telephone 103 transmits to transaction unit 106 . . . account information defining the type of account that wireless telephone 103 wishes the merchandise charged against . . . . " See Griffith, 3:35-40. For this additional reason,

it is respectfully submitted that Griffith does not anticipate or make obvious claims 28, 31-59, 63-65 and 83-84.

Third, claims 32-35 and 85-86 require a customer transceiver or device that captures biometric data. The biometric data can be used, for example, to secure the use of the customer transceiver as provided for in claims 35 and 86. The use of biometric data, for any purpose, is not mentioned in Griffith. For this additional reason, it is respectfully submitted that Griffith does not anticipate or make obvious claims 32-35 and 85-86.

Fourth, newly added dependent claims 83-84 require that the information transmitted by the customer transceiver "does not contain a customer's credit card or debit card number." In direct contrast, in Griffith, "[o]nce the call is connected, wireless telephone 103 transmits to transaction unit 106 . . . account information defining the type of account that wireless telephone 103 wishes the merchandise charged against . . . Transaction unit 106 then verifies the account information. If a credit card is being utilized, transaction unit 106 will contact a credit card database to verify that the number is valid." See Griffith, 3:35-44. In other words, the mobile phone in Griffith conveys the credit card number to be used directly to the cash register or other point of sale device. For this additional reason, it is respectfully submitted that Griffith does not anticipate or make obvious claims 83-84.

Fifth, and finally, it is respectfully submitted that numerous additional distinctions exist. For example, Griffith does not teach a customer transceiver that compares transaction data to a stored dollar amount (claims 36-37 and 87-88), does not include a customer transceiver embedded inside an item of clothing or jewelry (claims 39-40) and has nothing to do with ATM authorizations (claims 89-90). For these additional reasons, it is respectfully submitted that Griffith does not anticipate or make obvious claims 36-37, 39-40 and 87-90.

#### IV. REQUEST FOR AN INTERVIEW

In order to expedite prosecution, applicant respectfully requests an interview.

V. CLOSING COMMENTS


In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, a Notice of Allowance is earnestly solicited. As always, if the Examiner has any questions or concerns, the Examiner is encouraged to contact the undersigned attorney at any time.

As previously stated, it is believed that the correct fees are submitted with this Response. However, if there is a shortage or deficiency in fees, the Commissioner is hereby authorized to charge or credit any difference to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,  
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